

House File 2314 - Introduced

HOUSE FILE 2314

BY WINDSCHITL, SORENSON, and
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A BILL FOR

1 An Act relating to the justifiable use of reasonable force and
2 providing a remedy.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 704.1, Code 2009, is amended to read as
2 follows:

3 **704.1 Reasonable force.**

4 1. "Reasonable force" is means that force and no more which
5 a reasonable person, in like circumstances, would judge to
6 be necessary to prevent an injury or loss and can include
7 deadly force if it is reasonable to believe that such force is
8 necessary to avoid injury or risk to one's life or safety or
9 the life or safety of another, or it is reasonable to believe
10 that such force is necessary to resist a like force or threat.

11 2. Reasonable force, including deadly force, may be used
12 even if an alternative course of action is available if the
13 alternative entails a risk to life or safety, or the life or
14 safety of a third party, or requires one to abandon or retreat
15 from one's dwelling or place of business or employment, and
16 a person has no duty to retreat from any place at which the
17 person has a right to be present, and has the right to stand
18 the person's ground, and meet force with force, if the person
19 believes reasonable force, including deadly force, is necessary
20 under the circumstances to prevent death or serious injury to
21 oneself or a third party, or to prevent the commission of a
22 forcible felony.

23 **Sec. 2. NEW SECTION. 704.4A Immunity.**

24 1. A person who uses reasonable force shall be immune from
25 any criminal prosecution or civil action for using such force,
26 unless the person against whom such force is used is a peace
27 officer acting within the scope of the officer's duties and the
28 peace officer discloses the officer's identity, or the person
29 knows or reasonably should know that the person is a peace
30 officer.

31 2. A law enforcement agency may use standard investigating
32 procedures for investigating the use of force, but the law
33 enforcement agency shall not arrest a person for using force
34 unless the law enforcement agency determines there is probable
35 cause that the force was unlawful under this chapter.

1 3. If it is later determined by a court or jury that
2 the person was justified in using reasonable force under
3 the circumstances, and the person is found not liable in a
4 civil court, the person shall be awarded reasonable attorney
5 fees, court costs, compensation for loss of any income, and
6 reimbursement of any other expenses incurred as a result of
7 being arrested and charged, to be paid by the civil plaintiff.

8 EXPLANATION

9 This bill relates to the justifiable use of reasonable
10 force.

11 The bill provides that a person may use reasonable force,
12 including deadly force, and a person has no duty to retreat
13 from any place at which the person has a right to be present,
14 and has a right to stand the person's ground, and meet force
15 with force, if the person believes reasonable force, including
16 deadly force, is necessary under the circumstances to prevent
17 death or serious injury to oneself or a third party, or to
18 prevent the commission of a forcible felony.

19 Current law provides that a person may use reasonable force,
20 including deadly force, even if an alternative course of action
21 is available if the alternative entails a risk of life or
22 safety, or the life or safety of a third party, or requires one
23 to abandon or retreat from one's residence or place of business
24 or employment.

25 The bill also provides that a person who uses reasonable
26 force shall be immune from any criminal prosecution or civil
27 action for using such force, unless the person against whom
28 such force is used is a peace officer acting within the scope
29 of the officer's duties and the peace officer discloses the
30 officer's identity, or the person knows or reasonably should
31 know that the person is a peace officer.

32 Under the bill, a law enforcement agency shall not arrest a
33 person for using force unless it determines there is probable
34 cause that the force was unlawful under Code chapter 704.

35 The bill also provides that if a court or jury finds a person

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1 justified in using reasonable force under the circumstances,
2 and the person is found not liable in a civil court, the
3 person shall be awarded reasonable attorney fees, court costs,
4 compensation for loss of any income, and reimbursement of any
5 other expenses incurred as a result of being arrested and
6 charged, to be paid by the civil plaintiff.